

### **REMARKS**

Claims 1-3, 5-15, 17, 19-22, and 24 are now pending in the application. Claims 1-3, 5-15, 17, 19-22, and 24 stand rejected and Claim 13 is objected to. Claims 1, 13, 19 and 24 have been amended. Support for the amendments can be found throughout the application, drawings and claims as originally filed and, as such, no new matter has been presented. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

### **CLAIM OBJECTIONS**

Claim 13 stands objected to for certain informalities. Applicant has amended Claim 13 according to the Examiner's suggestions. Reconsideration and withdrawal of this objection are respectfully requested.

### **REJECTION UNDER 35 U.S.C. § 112**

Claim 24 stands rejected under 35 U.S.C. § 112, second paragraph. Applicant has amended Claim 24 to overcome this rejection. Reconsideration and withdrawal of this rejection are respectfully requested.

### **REJECTION UNDER 35 U.S.C. § 102**

Claims 1-3 and 6-10 stand rejected under 35 U.S.C. § 102(b) as being anticipated by BIOMET brochure (engineering drawings submitted 7/22/1997 and cited in Applicant's IDS of 12/17/2003). This rejection is respectfully traversed.

The Examiner's attention is directed to Claim 1 which contains the limitation that

the coupling device is an integral straight anchoring device having a textured outer surface configured to be directly coupled to bone. Applicant submits that the coupling taper for the head shown in the BIOMET brochure is configured to couple to a female coupling taper on a modular stem. As such, the stem showing the BIOMET reference does not show a textured outer surface as claimed.

The Examiner's attention is further directed to Claim 1 which has been amended to contain the limitation that the extended articulating surface has a planar second surface. Applicant notes that the interior surface of the BIOMET reference is concave and not planar. As such, Applicant submits that Claim 1 and its dependents are not anticipated by this reference.

Claims 1-3, 5, 6, 8, 10, 12, 19, 20, and 24 stand rejected under 35 U.S.C. 102(b) as being anticipated by Rambert et al. (FR 2 578 739). This rejection is respectfully traversed.

Applicant respectfully submits that the Rambert reference does not teach an integral straight tapered anchoring device having a textured surface configured to be directly coupled to bone. Rambert discloses a multi-piece coupling stem, not an integral stem. In this regard, Applicant notes that the cited stem (7) has a smooth exterior surface in the form of a coupling taper. This stem (7) must be coupled to locking member (4) to be coupled to bone. In an effort to expedite prosecution, Applicant has amended Claims 1 and 13 to clarify "integral" means that the anchoring device is integral with an interior surface of the head. With respect to Claim 19, Applicant notes that the Rambert reference further does not teach positioning the extended articulating

surface in a lateral position. As such, Applicant submits independent Claims 1 and 19, as well as their dependents, are not anticipated.

Claims 1-3, 5, 6, 8-15, and 17 stand rejected under 35 U.S.C. 102(b) as being anticipated by Prybyla (U.S. Pat. No. 6,045,582). This rejection is respectfully traversed.

The Examiner's attention is directed to independent Claim 1. Claim 1 contains the limitation that the integral straight anchoring device is integral with a concave interior surface opposite to said exterior articulating surface. The Examiner's attention is directed to Figures 1 and 3 of the 6,045,582 reference which clearly show that the head is coupled to the stem using a conical taper connector (52). As such, the stem of the 6,045,582 reference is not "integral" with the interior surface.

As noted above, Claim 13 has been amended to clarify that the integral engagement stem is integral with the concave coupling surface. Applicant submits U.S. Patent No. 6,045,582 does not teach this limitation. Applicant therefore respectfully submits that U.S. Patent No. 6,045,582 does not anticipate this claim.

Additionally, Claim 13 has been amended to contain the limitation "a flange extended surface protruding from said hemispherical articulating surface operable to articulate with at least one element of a coracoacromial arch, said flange having a least two planar inner surfaces configured to prevent rotation of the head about an axis defining the hemispherical articulating surface." Applicant respectfully submits that the flanges cited by the Examiner are not protruding from the hemispherical articulating surface and, as such, does not anticipate Claim 13. As such, Applicant submits independent Claims 1 and 13 and their dependents are not anticipated by the reference.

Claims 1-3, 6-13, 15, 17, 19-22, and 24 stand rejected under 35 U.S.C. 102(e) as being anticipated by Long et al. (U.S. Pat. Pub. No. 2004/0193277 A1). Applicant reserves the right to file an Affidavit under 37 CFR 1.131 to overcome the reference. This rejection is respectfully traversed.

As noted above, Claim 1 has been amended to include the limitation that the extended articulating surface has a planar second interior surface. Similarly, Claim 19 has been amended to include the steps of resecting the humeral head so as to form a planar surface. Applicant respectfully submits that the 2004/0193277 reference shows an articulating humeral head having a spherical inner surface (38). Further, with respect to the rejection of Claim 19 and its dependents, the 2004/0193277 reference is silent as to forming resecting the humeral head to form planar surfaces.

With respect to Claim 13, Applicant notes that the flange extended surface has a “v” shaped inner surface configured to prevent rotation of the head about an axis defining hemispherical articulating surface. Applicant notes that none of the references teach or suggest this limitation.

Claims 19, 20 and 24 stand rejected under 35 U.S.C. 102(b) as being anticipated by the disclosure of Copeland™ Humeral Resurfacing Head (BIOMET Orthopedics, Inc.: 2000 brochure). This rejection is respectfully traversed.

As noted above, Claim 19 has been amended to include the limitation “resecting the humeral head so as to form a planar surface.” Applicant notes the Copeland humeral resurfacing reference is silent as to this step.

**REJECTION UNDER 35 U.S.C. § 103**

Claim 11 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over BIOMET brochure in view of Pappas et al. (U.S. Pat. No. 4,470,158). Claims 11 and 22 stand rejected as being unpatentable over Rambert et al. in view of Pappas et al.

As Claim 11 depends on Claim 1 and Claim 22 depends on Claim 19, Applicant respectfully submits that for the aforementioned reasons the references do not teach each of the limitations as claimed.

**CONCLUSION**

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

Dated: \_\_\_\_\_

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